



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,529	06/02/2006	Shin Kikuchi	062603	9467
38834 7590 10/01/2009 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER ZANELLI, MICHAEL J				
ART UNIT 3661		PAPER NUMBER		
NOTIFICATION DATE 10/01/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

### Office Action Summary

**Application No.**

10/581,529

**Applicant(s)**

KIKUCHI ET AL.

**Examiner**

Michael J. Zanelli

**Art Unit**

3661

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-11, 13-16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 13-16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This is responsive to the amendment filed 6/29/09. Claims 1-4, 6-11, 13-16, 18 and 19 are pending.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-4, 6, 7, 15, 16, 18 and 19 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. As per claim 1, the claim uses the phrase "means for" thus invoking 35 U.S.C. 112, sixth paragraph. Claim element "travel acquisition means" is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function. The specification at page 12 merely states that "travel acquisition means 11" acquires the travel data from the computer system in a travel management center 50. Fig. 1 merely shows a block 11 labeled "travel acquisition means". There is no clear disclosure of the corresponding structure(s) which link with the claimed "travel acquisition means".

Applicant has responded that the structure corresponding to the claimed means is "implicitly disclosed or inherently disclosed in the specification", citing language found on page 12, lines 23-24 (as amended under PCT Article 34). However, the cited passage of the specification does not explicitly or implicitly

disclose what the "structure" of the "travel data acquisition means" is or comprises such that the metes and bounds of this limitation may be ascertained.

Applicant is required to:

- (a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function **without introducing any new matter** (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

- (a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, **without introducing any new matter** (35 U.S.C. 132(a)); or
- (b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

B. As per claim 15, claim element "distribution means" is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function. Page 18 of the specification fails to link the "distribution means" to any particular structure(s) and Fig. 7 merely shows a block labeled "distribution means".

Applicant has responded that the structure corresponding to the claimed means is "implicitly disclosed or inherently disclosed in the specification", citing language found on pages 6, 12, 13, 16 and 17 for support. However, these citations merely describe the functions of the "distribution means. Applicant has failed to clearly identify the "structure" which, implicitly or explicitly, corresponds to the "distribution means" such that the metes and bounds of this limitation may be ascertained.

Applicant is required to:

- (a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function **without introducing any new matter** (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure,

material, or acts perform the claimed function, applicant is required to clarify the record by either:

- (a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, **without introducing any new matter** (35 U.S.C. 132(a)); or
- (b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

C. All claims depending from a rejected base claim are also rejected as containing the same deficiencies.

4. Claims 1-4, 6-11, 13-16 and 18-19, as best interpreted given the deficiencies noted above, stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schmier et al. (2002/0069017).

A. As per claims 1, 8 and 15, Schmier discloses a device and method for acquiring travel data as well as a distribution device for distributing travel data based thereon. Fig. 1 shows a vehicle (10) which may be one of a plurality of transit vehicles traveling on an assigned route. Each vehicle includes sensors for acquiring travel data over a period of time [0016-0020]. A central processing means (22) receives the travel data from the various transit vehicles to generate transit tables as well as storing the acquired data to generate an historical

database [0021-0022]. The database correlates the collected travel data with conditions under which the data was acquired [0023]. The stored information may subsequently be used to distribute travel data in response to a request from a mobile terminal (Fig. 1: 60). As noted above the claims include "means" language which may be interpreted to invoke 112/6<sup>th</sup> paragraph. Although there does not appear to be a clear link to corresponding structures in the specification, Figs. 2 and 7 appear to suggest computing devices may be involved. Schmier discloses that the device and method utilizes processing circuitry (Fig. 1:16, 22). In the alternative, one of ordinary skill in the art would have found it obvious to embody the teachings of Schmier using a programmed processor or hardware equivalents capable of providing the same functionality.

B. As per claims 2-4, 6, 7, 9-11, 13, 14, 16, 18 and 19, as above whereby the travel data is acquired from a plurality of transit vehicles operating on assigned routes having stops for picking-up/dropping-off passengers [0062]. Travel data is collected as the transit vehicle operates and is provided to a central processing means for correlating ("sorting") the data and conditions under which it was obtained to generate transit tables. The transit tables necessarily represent the various operating schedules of the transit vehicles for a given transit route. Conditions under which the travel data is obtained may reflect date/time, traffic and/or weather conditions [0023].

5. **REMARKS**

A. Acknowledgement is made of the receipt of the substitute specification and Abstract in which deficiencies noted in the previous Office action have been corrected.

B. Acknowledgement is made of the receipt of the certified translation of the foreign priority document, thus perfecting the earlier filing date. The rejection in view of the intervening reference (Ignatin US2005/0131634) is hereby withdrawn.

C. With regards to the rejections of claims 1 and 15 under 35 U.S.C. 112/2, the applicant has failed to clearly identify/link the claimed "means" to the corresponding structure in the specification. Applicant has not stated what the "implicit" or "inherent" structures are such that the metes and bounds of the claimed "means" may be ascertained.

D. With regards to the rejection in view of Schmier et al. (US2002/0069017), applicant's arguments have been duly considered but are not persuasive. Applicant argues that Schmier does not disclose or suggest how the experience (historical) data is obtained. The examiner disagrees. Paragraphs [0022-0023] describe how information is collected from various transit vehicles operating on various transit routes. Transit times for transit routes are collected and stored to produce historical transit data which may be organized according to day, time, year, season, etc. The transit times are calculated between appropriate points (stops) along the transit route. The information is used to create and disseminate transit tables/schedules.



6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (571) 272-6969. The examiner can normally be reached on Monday-Thursday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J. Zanelli/  
Primary Examiner  
Art Unit 3661